THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.29775 of 1997

Dated:04.07.2006

Between:

Koduri Kotayya (died) and others.

…Petitioners

and

The District Collector, Ongole, Prakasam District, and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.29775 of 1997

ORDER:

The first petitioner, Kotaiah, was assigned the land admeasuring Acs.5.37 cents in Survey No.645/1 situated at Bheemavaram Village, Ulavapadu Mandal of Prakasam District, in 1968. As per the conditions of grant the assignee was required to bring the land under cultivation within a period of three years. During inspection, the Mandal Revenue Officer, the third respondent herein, noticed that the assignee did not bring the land into cultivation and leased out the land to others in 1987 for a period of sixty years. Therefore, a show cause notice was issued on 11.02.1997 calling upon the first petitioner to show cause as to why assignment should not be cancelled. As the show cause notice could not be served, the same was pasted to the door of the assignee. An explanation was submitted. After considering the explanation, the third respondent by proceedings dated 15.03.1997 cancelled the assignment under B.S.O.15 para 12(3) (A) and (D) and B.S.O para 12 (iii). Aggrieved by the same, he preferred an appeal before the second respondent, who by order dated 16.09.1997 dismissed the same. Aggrieved by the same, the present writ petition is filed.

During the pendency of the writ petition, the first petitioner, Kotaiah, died and his legal representatives are impleaded as petitioner Nos.2 to 5 by reason of the orders of this Court dated 09.10.1998 in W.P.M.P.No.34091 of 1998.

It is the contention of the petitioners that the land is under their personal cultivation since 1968 as evidenced by the pattadar pass books issued in 1995, and therefore, the allegation that the same was not cultivated is not correct. It is also urged that the alleged lease deed is an unregistered one, which was brought into existence by forgery and the same cannot be the basis for cancellation of assignment as the petitioner belongs to Scheduled Caste community.

This Court has perused the order passed by the original authority

as well as the appellate authority. The reason for cancellation is twofold: First, the first petitioner, Kotaiah, failed to bring the land under cultivation even after lapse of seventeen (17) years, and secondly, the assignee leased out the land for a period of sixty years in 1985. The basis for such allegation was the inspection made by the Mandal Revenue Officer, who submitted a report to the District Collector vide Rc.B/433/96, dated 26.07.1996. When a Revenue Official personally inspects the land and reports the true state of affairs, the same cannot be doubted. At this stage it is not possible to believe the version of the petitioners that the petitioners and the original assignee were in possession of the property. It is a disputed question of fact.

The Writ petition is devoid of any merit and is accordingly dismissed. No costs.

_____

(V.V.S.RAO, J)

04.07.2006
vs